

**TAB 100**

BIPI - Christine Marsh  
May 31, 2007

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IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

vs. CIVIL ACTION NO. 2005-219

ABBOTT LABORATORIES, INC.,

et al.,

Defendants.

\* \* \* \* \*

The videotaped deposition of CHRISTINE G.  
MARSH was taken before Cornelia J. Baker,  
Certified Court Reporter and Certified  
Shorthand Reporter, as Commissioner, on  
Thursday, May 31, 2007, commencing at  
approximately 10:12 a.m., in the law offices  
of Kirkland & Ellis, 153 East 53rd Street,  
New York, New York pursuant to the  
stipulations set forth herein.

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<p style="text-align: right;">Page 114</p> <p>1 (Witness reviewed document.)</p> <p>2 Q. Do you recognize that document</p> <p>3 to be a series of e-mails and also an</p> <p>4 attachment of a Price Adjustment Request</p> <p>5 Form?</p> <p>6 A. Yes. I recognize it to be</p> <p>7 that.</p> <p>8 Q. What is a Price Adjustment</p> <p>9 Request Form?</p> <p>10 A. You know, first of all, this is</p> <p>11 a Roxane document. I haven't worked with</p> <p>12 these forms in years. This was a form that</p> <p>13 needed to be completed by the national</p> <p>14 account manager, as it states on the form.</p> <p>15 And it was sent to various individuals. And</p> <p>16 all of this information had to be completed,</p> <p>17 and then it went through an internal approval</p> <p>18 process as to whether or not we could agree</p> <p>19 to adjust this price on their contract.</p> <p>20 Q. Does BIPI have similar Price</p> <p>21 Adjustment Request Forms?</p> <p>22 A. No, we do not.</p> <p>23 Q. Flip over to the page in front</p> <p>24 there. At the top it says Kim Storck?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 116</p> <p>1 price which you would negotiate. And the</p> <p>2 Customer Comparability would be the customer</p> <p>3 whereby it would connect you to that FSS</p> <p>4 price. And any customer that was identified</p> <p>5 as a COC for that product with that -- with</p> <p>6 the FSS contract, any time you would lower</p> <p>7 the price to that customer, the COC, you</p> <p>8 would have to lower the FSS price at the same</p> <p>9 time before you could extend that price to</p> <p>10 that customer.</p> <p>11 Q. And when you e-mail back to Kim</p> <p>12 and tell her that this error can be</p> <p>13 overridden, what do you mean?</p> <p>14 A. Well, as I'm reading through</p> <p>15 this e-mail -- let me just say it's not an</p> <p>16 error. What it is, is that she's saying that</p> <p>17 these prices undercut FSS, but not the COC.</p> <p>18 So the price that was being offered to Medco</p> <p>19 was lower than our Federal Supply Schedule</p> <p>20 price, but it was not linked to the Customer</p> <p>21 of Comparability.</p> <p>22 And at the time, the way our</p> <p>23 system was set up is that you had to lower</p> <p>24 the -- we were going through some system</p> <p>25 changes at that point in time. But</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. Who is Kim Storck?</p> <p>2 A. She was -- she worked -- she</p> <p>3 used to work for Roxane. And I'm not exactly</p> <p>4 sure if her title was Contract Analyst or</p> <p>5 Contract Manager or Contract Supervisor. I</p> <p>6 don't recall their titles. But she worked in</p> <p>7 the contracts area.</p> <p>8 Q. Do you see there where she</p> <p>9 sends you an e-mail on March 14, 2001?</p> <p>10 A. Yes.</p> <p>11 Q. She says, Chris, these prices</p> <p>12 undercut FSS, but not COC. What does that</p> <p>13 mean to you?</p> <p>14 A. FSS would refer to our Federal</p> <p>15 Supply Schedule price. COC would refer to</p> <p>16 Customer of Comparability.</p> <p>17 Q. What's a Customer of</p> <p>18 Comparability?</p> <p>19 A. In the Roxane world, a Customer</p> <p>20 of Comparability would be -- and I'm -- my</p> <p>21 exact -- I'm not going to be exact,</p> <p>22 necessarily, in some of my comments here. I</p> <p>23 haven't worked in this environment for</p> <p>24 several years. But underneath the Roxane</p> <p>25 agreement, you have a Federal Supply Schedule</p>	<p style="text-align: right;">Page 117</p> <p>1 technically, this was not an error. It was</p> <p>2 not a violation. It would have only --</p> <p>3 because the price that was being offered to</p> <p>4 Medco was not undercutting our COC, our</p> <p>5 Customer Comparability. So when we put it in</p> <p>6 the system, we had to make an adjustment.</p> <p>7 The error was a poor choice of words there.</p> <p>8 Q. At the top there where it has</p> <p>9 Kim's name and then it says R-O-X-U-S, what</p> <p>10 is that?</p> <p>11 A. That was in reference to the</p> <p>12 e-mail, and I believe that it stands for ROX,</p> <p>13 ROX as in Roxane, U.S. I believe that's what</p> <p>14 it stood for. I'm not exactly sure.</p> <p>15 Q. So if I saw an e-mail or a</p> <p>16 trail of e-mails that said R-O-X-U-S, would</p> <p>17 it be safe to assume that it's a Roxane</p> <p>18 document?</p> <p>19 MR. KAVANAUGH: Objection to</p> <p>20 form.</p> <p>21 A. I wouldn't say that it's safe</p> <p>22 to assume that it's a Roxane document. It's</p> <p>23 a connection with the e-mail address. If you</p> <p>24 look at Judy Waterer, ROXUS, Judy Waterer,</p> <p>25 and then Kim Storck, it was something within</p>

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<p>1 the e-mail system. That would be the 2 assumption I would make. I don't know. 3 Q. Well, if I saw an e-mail with 4 your name on it and then R-O-X-U-S, would it 5 be safe for me to assume that you were still 6 employed by Roxane at that time? 7 A. I don't know that that would be 8 a fair assumption. 9 Q. You don't know if your e-mail 10 address changed when you went from Roxane to 11 BIPI? 12 A. Well, when I first started up 13 at BIPI, I was still -- I started with BIPI 14 in January of 2001. But I was commuting back 15 and forth, because my family still lived in 16 Columbus. So even though I was an employee 17 of BIPI in January of 2001, you most likely 18 would have seen e-mails -- they would have 19 had, like you're looking at this one from me, 20 ROXUS, because I was still working using that 21 particular e-mail address, because I had not 22 officially moved, physically moved from 23 Columbus to Connecticut at that point in 24 time. And they didn't transition my e-mail 25 address until after I had moved.</p>	<p>1 purchaser a client, correct? 2 A. We would consider them to be an 3 organization for which we have a contract. 4 We don't use the word "client." 5 Q. What about, do you use the word 6 "customer"? 7 A. We use customer, yes. 8 Q. Is it fair to say that BIPI's 9 customers can be both those folks who have 10 contracts with BIPI and those who don't, 11 correct? 12 A. I could say, yes, that a 13 customer can -- a customer can be a 14 physician, a patient. 15 Q. And you might consider Alabama 16 Medicaid to be a customer, because you know 17 that Alabama Medicaid pays money to reimburse 18 for BIPI's drugs, correct? 19 A. No. I would say we could 20 consider Alabama Medicaid to be a customer, 21 but not necessarily because of that. 22 Q. And you just don't really have 23 any knowledge about Alabama's reimbursement 24 system when it comes to BIPI drugs, correct? 25 A. No, I do not. Generally</p>
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<p>1 Q. When did you physically move? 2 A. I physically moved myself and 3 my family up there in August of 2001. 4 MR. CARTER: All right. Let's 5 take a break. 6 THE VIDEOGRAPHER: Going off 7 the Record at 1:40 p.m. 8 (A brief recess was taken.) 9 THE VIDEOGRAPHER: Back on the 10 Record at 1:48 p.m. 11 BY MR. CARTER: 12 Q. Revisiting Topic 35: Does BIPI 13 consider Alabama Medicaid to be a customer or 14 a client? 15 A. I wouldn't say that BIPI 16 considers Alabama Medicaid to be a client, 17 possibly a customer. 18 Q. To be a client of BIPI, you 19 generally would have a contract with BIPI, 20 correct? 21 MR. KAVANAUGH: Objection to 22 form. 23 A. I wouldn't say that. 24 Q. Well, if BIPI had a contract 25 with a purchaser, you'd consider that</p>	<p>1 speaking, no, I do not. 2 Q. All right. You were also 3 designated for Topic or Subject Matter No. 1. 4 Do you see that? 5 A. Yes. 6 Q. What is the reason that BIPI 7 signs Medicaid Rebate Agreements? 8 A. Well, BIPI has an assigned 9 Medicaid Rebate Agreement with CMS to ensure 10 that patients underneath the Medicaid program 11 have access to our products. 12 Q. Why is it important that 13 patients under Medicaid have access to BIPI 14 products? 15 A. Well, from a BIPI perspective, 16 we like to -- we like to ensure that all 17 patients have access to our products. 18 Q. And the best way for BIPI to 19 earn revenue is to ensure that everyone 20 possible has access to BIPI drugs, correct? 21 A. Well, I guess you could say 22 that, you know, we, as an organization, if 23 patients have access to our products and a 24 script is written for them, then, yes, we 25 would generate revenue from that script being</p>

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